

# Selectmen's Minutes

March 22, 2004

7:00 P.M.

5/24  
⑦

Present, Walter Foster, Peter Ashton, F. Dore' Hunter Trey Shupert, Robert Johnson  
Town Manager and Assistant Town Manager. Meeting was televised.

## CITIZEN'S CONCERNS

None

## SEWER COMMISSIONER'S REPORT

None

Trey asked for an update and fund balance for the April 26<sup>th</sup> meeting after Town Meeting.

## PUBLIC HEARINGS & APPOINTMENTS

**QUAIL RIDGE COUNTRY CLUB** – Ron Peabody outlined his purpose for coming tonight. He wants to thank the Board and townspeople for the support with regard to this project. They continue to build an 18 hole and hope to finish. They have had to go to their lenders for additional time and have come up with a back up plan if they are not successful in getting the memberships required. They need to sell 84 more memberships in order for the bank to release the final funding. He asked for the Board's support of his backup plan.

He has hired a new Director of Marketing and Sales. They hope they will be able to get the memberships within the nine months.

They have all 18 fairways roughed in and 74% complete. They will be grassing the 8 holes and when they get the 84 members the Bank will come through with the additional money to complete the remaining 9 holes.

Trey said he believes strongly that this will be a wonderful addition to Acton. He will do anything to support the project.

Bob thought that a 164 was a lot of houses. Under the current law, he can build 500 houses.

Walter Foster - He felt very strongly that it should be developed as a Country Club.

Dore' is ok with looking at the backup plan and could support the alternative if necessary, and noted it would not attract children being an Over 55 restricted development.

Peter said he was very interested in seeing the completed and he supports Mr. Peabody's efforts.

Dan Kline said Ron and the Palmers have been most ethical and supportive and speaks as a member and resident.

**SITE PLAN 10/09/03-394, MONTUORI REALTY TRUST, 5-19 MAPLE STREET TREY SHUPERT** – Move to continue the hearing to April 26, at 7:15 PETER ASHTON – Second. UNANIMOUS VOTE

**LIP APPLICATION PRESENTATION, FORT POND BROOK PLACE, 68 RIVER STREET**

Mr. Gadbouy updated the Board on the issue and proposal to construct their affordable housing on River Street. They have gotten help from all those involved. They hope to have additional projects in and around the neighboring towns

They are hoping the Board will approve and sign the papers work to allow them to send it to the State, best case opening the ground August.

Walter said they encourage developers go Lip as it is a good process with all involved. He urged the LIP type development.

Bob said he thought this was a good project for South Acton.

Trey said it is a good use of the site and they have been sensitive in the area. He also thanked them for working with staff.

Peter agreed that this was a very helpful presentation. ACHC should be commended and hopes this type of development serves as an example to other developers of LIP Projects.

PETER ASHTON - Move to authorize the Chair to sign the letter of support. TREY SHUPERT – Second. UNANIMOUS VOTE.

**DANEILLA'S TACORITO LIQUOR LICENSE HEARING**

Chief Widmayer noted that the driver that had the accident reaffirmed her statement that she had left Daniela's after drinking there at court and in a written statement through her Attorney that she was drinking at the establishment and that her last drink was at that establishment.

The attorney representing the corporation was present to help in the Hearing with his client Mr. Miranda.

The Board is very concerned that they have violated twice in a 4 month period. Dore' noted that he wanted the record that they have violated the terms of their license.

Customer Paul Swimmer [sp.] – Lives at 169 Great Road in Shirley, 38 employed, self employed painter and faux finisher. The attorney asked several questions about that night. The witness spoke with her for an hour. He noted that Andrea lived a mile away. When asked how old she was he thought perhaps 38. What did they discuss? Divorce, restaurants small talk. He said she held a good conversation. He left 10ish. She was walking fine and steady on her feet.

Walter asked about his experience with intoxicated people. He replied at parties and get together where it is served any people may over drink. He got to the restaurant just before 9. He was asked if he knew how long Andrea had been in the bar. The witness was asked if he had any prior relationship with Mr. Miranda. He said no, but that he had eaten there several times. It was noted that there were several other patrons in the restaurant. He was asked if she said where she had been before Daniela's. He asked if he or she had taken any drugs that evening. He did not know about her taking any drugs and he waited for her to start her van before he drove away first.

Dore' asked who else was there. Dore' asked how many times he had gone to the restaurant before and after the incident, several times before and tonight. Trey said he knew Paul the witness. He was concerned that this was the Second offence for the restaurant, and why Mr. Miranda didn't feel it was important to come to the other meetings. He said he did not want to leave his business open with out him there so he did not come, he sent Tracy.

Prosecutor Rentschler said the time line didn't work He got ribs. He sat a few seats away and he ate. Did he watch and speak to her during dinner how many drinks did she have? He said she had two that he knew of. But didn't know about before he arrived. He said she seemed normal when she went to the restroom at least twice and walked fine.

Geraldo Miranda, 38, he lives at 60 Prospect Street. He is the owner of Daniela's and was working that evening worked from 10am to close. Did he recall Paul in the restaurant? Did not remember her. He asked when the prior witness Paul came in after 8. the female was there before Paul. Did she eat, no and ordered beer. Amstel Light beer was ordered. He did not talk to her except to serve her. She was not loud or sleepy. He noticed her come in and when she left she was fine. Did she pay for her own drinks, yes, and left a tip of a couple of bucks. He was asked about what they do to assure that they don't over serve. Three drinks are what they serve. But did not seem to know the rest of the regulations, he leaves it to Tracy. They have 3 TIPS trained employees.

The Prosecutor asked if he knew what time Andrea was there before him, he said no. He noted that he watched her walk away. How many steps from the bar, maybe 8. He said she was fine as she walked out. Have you shut off and do they return, what do you do? Refuse to serve and if they are trouble, call the police.

Walter asked about his experience in working in establishment with liquor. He worked with his partner Ken Bender at Ken's American Steak House in Littleton, as well as Amory's in Maynard. He asked about having to call the police. He asked if he knew Andrea before this date. He said no. He was asked about training of employees. He asked what he did to be sure that they follow the rules. Tracy, Brooke, and Denise are TIP trained. He was only the bartender that evening.

Trey asked about how many drinks before his arrival. He said two beers all night both at the restaurant. He asked Mr. Miranda for an example of how he protects people that over, he has called a cab.

Can you summarize the Liquor Policy; He stated he does not remember at this point. He said he did serve her that evening. Peter asked about how he checks to be sure that

wait staff is not serving liquor to someone impaired. He said they look for walking and talking troubles. He said he did not observe her drive away.

Chief asked about cash receipts. They do not have them. He wants to have the real owner identified. Mr. Miranda is owner, president and Tracy Boyd is Manager, Clerk of the Corp.

Dore' noted that he finds no confidence in the owner of the license and feels we should make conditions, and a reason presented to the Board why we should not revoke their license. He wants it demonstrated they know the policy and employees are given classes regarding liquor service, whether it is TIPS or some other training.

Peter agreed with Dore' they don't know seem to know what to do and does not go over the policy with employees that are not TIPS trained. He was concerned about time frame for compliance. He wants all employees to go through the TIPS program in a short timeframe.

Trey said he did not understand how she could have such a high blood alcohol and gaps in missing time. He agrees with Dore' and needs to monitor and train such as what they did with Makaha. He thinks Chief and Town Manager work up a set of rules about operation, and return before the Board.

Bob was concerned with time line and was concerned with blood alcohol level 2 hours after the accident.

Walter expressed his concerns about him not attending the meetings. This is a serious issue and in terms of the licensing power this Board has. He said he thinks for the most part staff is untrained and have very little supervision. He was concerned about the entire management and lack of knowledge by the waitress that attended the other meeting or about the policy.

Mr. Miranda was asked to reduce the action he will be taking to writing and forward to the Board and Chief. The requirements this Board will make regarding training and time limit will be forwarded to Mr. Miranda for action and compliance.

**ACTON INDOOR SPORTS SPECIAL PERMIT #08/22-95-353- PETER ASHTON –**  
Moved to continue to April 26, 7:30. TREY SHUPERT – Second. UNANIMOUS VOTE

## **SENATOR RESOR AND REPRESENTATIVE ELDRIDGE**

They hope to have the budget on Governor's desk in June. They hope to have early information on assistance, regional transportation money and SPED commitment.

Rep. Eldridge noted that they fully expect full funding on Chapter 70. They are looking at a circuit breaker for SPED.

Cory Atkins reported about an unfunded mandate on Ballot materials. They continue work with Minuteman and traffic complaints on Great Road.

James Eldridge said he is working on Middlesex Retirement issue and they looking toward what key pieces you would like them to pursue.

Walter said we manage well and work together. This is the year we do not go for an override this year. We will need to put forward next year. He was glad that we were level funded at the State level.

Dore' said this is worse than the end of the MASS MIRCLE. He noted the Middlesex Retirement issue is very frustrating. There needs to be employee's interest, and a call for some accountability to members and communities.

Peter spoke about seeing some initiative on Senior tax rate relief. He thinks that things are as bad as they ever have been. The economic times and Prop 2 ½ have lead to us to be forced to reduce our budgets. He urged them to look again at Prop. 2 ½.

Trey said his biggest issue is Middlesex Retirement Association has told employees that their pensions are not in danger. He was optimistic when the director left and the new one came in that we could get him to reform. He also spoke about unfunded mandates.

**SCHOOL COMMITTEE CHAIRMEN** came in to present their budget. PETER ASHTON Move we recommend the Regional and Public School budgets. DORE' HUNTER - second. UNANIMOUS VOTE.

**DOUGLAS SCHOOL HEATING REPAIR ARTICLE** - PETER ASHTON – Moved to Recommend. TREY SHUPERT – Second. UNANIMOUS VOTE.

## **SELECTMEN'S BUSINESS**

**SITE PLAN #11/07/03-393, WETHERBEE PLAZA EXTENSION** –Bob updated the Board on his site visit with Leo Bertolami. BOB JOHNSON - Move to approve this Decision. PETER ASHTON- Second. Peter asked for additional signage and felt it was the best solution. Walter too agreed. UNANIMOUS VOTE.

**ACTON COMMUNITY HOUSING CORP. PROPOSAL TO HIRE 40B CONSULTANT** – Nancy Tavernier said that the appointment will happen in April and they are asking for support from the Board. The Board stated they support the process.

Peter asked if we could ask the developer to pay a portion of this. She said she will ask.

DORE' HUNTER – Moved to Support the concept of a hiring a mediator or consultant under 40B. PETER ASHTON – Second. UNANIMOUS VOTE

### **OTHER BUSINESS**

Dore' spoke about notifying Boxboro regarding Dispatch deadline.

**CLOTHING MINISTRY -BARBARA AND IRA SMITH** – Charter Road residents they have received many donations 11,426 items and have given away large items They now have a space at 530 Main Street to accommodate the goods. They invited the Board to come visit or make an appointment. They now pay rent so they need help in maintaining the program that is so vital. They are keeping people healthy and supplying their needs as best they can. They get calls from all over Mass regarding their Ministry.

## **CONSENT AGENDA**

PETER ASHTON– Moved to approve. – DORE' HUNTER - Second.

## **TOWN MANAGER'S REPORT**

Don said he has hired Bruce Stamski as DPW Director.

### **EXECUTIVE SESSION**

DORE' HUNTER –Move to go into executive session for the purpose of Legal Strategy discussing real property. PETER ASHTON – Second. All AYES

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Christine Joyce  
Recording Clerk

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Clerk

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Date

March 19, 2004

**TO:** Board of Selectmen, Sewer Commissioners

**FROM:** Walter Foster, Chairman

**SUBJECT:** Selectmen and Sewer Commissioners Report

**MARCH 22, 2004**  
**MEETING BEGINS AT 7:00 P.M.**

**I. CITIZEN'S CONCERNS**

**II SEWER COMMISSIONERS' BUSINESS**

**III. PUBLIC HEARINGS & APPOINTMENTS**

1. 7:02 **QUAIL RIDGE COUNTRY CLUB** – Enclosed please find materials in the subject regard, for Board consideration.
2. 7:15 **SITE PLAN 10/09/03-395, MONTOURI REALTY TRUST, 1-19 MAPLE STREET**  
Enclosed please find materials in the subject regard. (CONTINUED)
3. 7:30 **LIP APPLICATION PRESENTATION, FORT POND BROOK PLACE, 68 RIVER STREET** –Enclosed please find materials in the subject regard for Board consideration. Also, please remember to bring the presentation notebooks you received from Nancy Tavernier on March 8<sup>th</sup>.
4. 8:00 **DANELIA'S TACORITO, 208 MAIN STREET – LIQUOR LICENSE HEARING**  
(Continued) Enclosed please find materials in the subject regard, for Board consideration.
5. 8:15 **SPECIAL PERMIT #08/22/95-353, ACTON INDOOR SPORTS**  
Enclosed please find materials in the subject regard for Board consideration.
6. 8:30 **SENATOR RESOR AND REPRESENTATIVE ELDRIDGE** – The Senator and Representative will be present to update the Board and respond to any questions.

**IV. SELECTMEN'S BUSINESS**

7. **SITE PLAN #II/07/03-393, WETHERBEE PLAZA EXTENSION DRAFT DECISION, –**  
Enclosed please find a draft decision for Board consideration.
8. **ACTON COMMUNITY HOUSING CORPORATION (ACHC) – PROPOSAL TO HIRE 40B CONSULTANT** – Enclosed please find a memo from the ACHC in the subject regard, for Board consideration.
9. **OTHER BUSINESS**

## **V CONSENT AGENDA**

10. **ACCEPT MINUTES** – Enclosed please find the Minutes of February 23 and March 1, 2004, for Board acceptance.

11. **SITE PLAN SPECIAL PERMIT #12/09/03-395, INTREGRITY BUILDERS, DRAFT DECISION** – Enclosed please find a draft decision for Board consideration.

12. **ACCEPT GIFT – STREAM TEAM PROJECT** -Enclosed please find donations from Haartz Corp, Acton Conservation Trust and Wayne Friedrichs to be used for the Stream Signage Program, for Board consideration.

13. **ACCEPT GIFT** – Enclosed find a memo from the Police Chief seeking Board acceptance of a donation of 2 Mobil Data Terminals form Wayne Friedrichs, valued at approximately \$6,000, for use by the Police Department.

14. **EAST ACTON VILLAGE PLANNING COMMITTEE** – Enclosed please find a request that the Board authorize a letter to the Chief of the Office of Commonwealth Development, for Board consideration.

15. **FIRST TIME HOME BUYERS REFINANCING CONSENT FORMS** – Enclosed please find correspondence from the ACHC, for Board consideration.

16. **REQUEST FOR FEE REDUCTION** = Enclosed please find a confidential request for a fee reduction, for Board Consideration.

## **VI. TOWN MANAGER'S REPORT**

## **VII EXECUTIVE SESSION**

There will be a need for Executive Session, enclosed please find enclosed Materials

### **ADDITIONAL INFORMATION**

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

### **FUTURE AGENDAS**

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This IS NOT a complete Agenda.

April 7 and 12<sup>th</sup> Pre-TOWN MEETING, Faculty Dining Room, AB High School  
April 26

#### **GOALS 2003-2004**

1. Labor Negotiations (Peter/Trey)
2. Improve Communication with Town Boards (Walter/Peter)
3. Revisit 2020 planning process for direction to make this process more beneficial towards implementation of long-term vision (Trey/Peter)
4. Towne Building Reuse (Bob)
5. ALG process be used for purpose of Budget Planning for FY04 Walter/Trey)
6. Process Planning for "Life after NESWC" (Peter) Implement Chairman Round Table – (Peter)
7. Joint IT process-organizational change (Walter/Dore/)
8. Middlesex Pension Alternatives (Walter)

#### **GOALS carried forward**

9. Public Safety Facility (Dore/Trey)